

John P. Hooper
jhooper@kslaw.com
KING & SPALDING LLP
1185 Avenue of the Americas
New York, NY 10036
Telephone: (212) 556-2220

Counsel for the Toyota Defendants

Elizabeth J. Cabraser (83151)
ecabraser@lchb.com
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Mark P. Robinson, Jr. (54426)
mrobinson@rcrlaw.net
Donald H. Slavik
dslavik@rcrlaw.net
ROBINSON CALCAGNIE
ROBINSON SHAPIRO DAVIS,
INC.
19 Corporate Plaza Dr.
Newport Beach, CA 92660
Telephone: (949) 720-1288

*Plaintiffs' Co-Lead Counsel for
the Personal Injury/Wrongful
Death Cases*

W. Daniel Miles, III
dee.miles@beasleyallen.com
BEASLEY ALLEN CROW
METHVIN PORTIS & MILES PC
272 Commerce Street
P.O. Box 4160
Montgomery, AL 36103
Telephone: (334) 269-2343

*Member of the Plaintiffs' Liaison
Counsel Committee for the
Personal Injury/Wrongful Death
Cases*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

In Re: TOYOTA MOTOR CORP.
UNINTENDED
ACCELERATION MARKETING,
SALES PRACTICES, AND
PRODUCTS LIABILITY
LITIGATION

This document applies to
All Personal Injury, Wrongful Death
and Property Damage Cases

Case No. 08:10-ML-2151 JVS (FMOx)

**PLAINTIFFS' AND TOYOTA
DEFENDANTS' JOINT STATUS
REPORT REGARDING THE
INTENSIVE SETTLEMENT
PROCESS**

Date: December 12, 2018
Time: 8:00 a.m.
Dept: Courtroom 10C
Judge: Honorable James V. Selna

Pursuant to the Court's Civil Minutes dated January 14, 2014 (Dkt No. 4504), the Court's Civil Minutes dated April 29, 2014 (Dkt No. 4554), the Court's Civil Minutes dated October 21, 2014 (Dkt No. 4740), the Court's Civil Minutes dated March 17, 2015 (Dkt No. 4933), the Court's Civil Minutes dated July 30, 2015 (Dkt No. 5030), the Court's Civil Minutes dated October 13, 2015 (Dkt No. 5073), the Court's Civil Minutes dated January 12, 2016 (Dkt No. 5112), the Court's Civil Minutes dated April 7, 2016 (Dkt No. 5150), the Court's Civil Minutes dated June 29, 2016 (Dkt No. 5199), the Court's text-only entry dated October 5, 2016 (Dkt No. 5229), the Court's Civil Minutes dated December 6, 2016 (Dkt. No. 5273), the Court's Civil Minutes dated March 7, 2017 (Dkt. No. 5338), the Court's Civil Minutes dated June 13, 2017 (Dkt. No. 5423), the Court's Civil Minutes dated October 11, 2017 (Dkt. No. 5476), the Court's Civil Minutes dated January 17, 2018 (Dkt. No. 5525), the Court's Civil Minutes dated April 25, 2018 (Dkt. No. 5589), the Court's Civil Minutes dated July 31, 2017 (Dkt No. 5621), and in advance of the Court's next Status Conference, which is set for December 12, 2018 at 8:00 a.m., Plaintiffs' Co-Lead Counsel for the Personal Injury/Wrongful Death Cases and members of the Plaintiffs' Liaison Counsel Committee for the Personal Injury/Wrongful Death Cases (collectively "Plaintiffs' Co-Lead Counsel") and counsel for Defendants Toyota Motor Corporation and Toyota Motor Sales, U.S.A., Inc. hereby respectfully submit this Joint Status Report Regarding the Intensive Settlement Process (the "ISP"). The ISP is continuing to make good progress as the parties attempt to resolve the various personal injury, wrongful death and/or property damage cases pending before this Court and in other courts.¹

I. Current Settlement Status

¹ The Court's Order Establishing Intensive Settlement Process ("ISP") and Setting Hearing (Dkt No. 4490) (the "ISP Order") was confirmed and adopted at the hearing held on January 14, 2014 and memorialized in the Court's Civil Minutes – General dated January 14, 2014 (Dkt No. 4504). A similar order was issued by Judge Edmon in Toyota Motor Cases, Joint Council Coordination Proceeding, No. 4261 (Superior Court of Los Angeles County, CA) (the "JCCP Proceeding").

1 Toyota is pleased to report that they have resolved, or have agreements in
2 principle to resolve, 514 matters.² Of this number, Toyota notes that 178 cases
3 (95%) are/were pending in the MDL (out of 188 total personal injury cases in the
4 MDL) and 92 cases (83%) are/were pending in the JCCP (out of 111 total personal
5 injury cases in the JCCP). According to Toyota, for the remaining 10 cases, or 5%,
6 pending in the MDL, all have requested ISP. Toyota reports that, for the remaining
7 19 cases, or 17%, pending in the JCCP, only 1 has not yet requested ISP. Plaintiffs'
8 Liaison Counsel is contacting counsel in this case to encourage participation in the
9 ISP.

10 Significantly, there are currently only four³ MDL cases and one JCCP case
11 that have gone through the entire ISP process that have been certified by the
12 Settlement Special Master as completing the process without resolving. Two other
13 JCCP cases and two other MDL cases that were previously certified out returned to
14 the ISP and subsequently resolved, and one other MDL case has been otherwise
15 dismissed by the Court. Attached as Exhibit A is a chart that provides a greater
16 breakdown by category for the ISP.

17 Overall and through the efforts of all parties, including, but not limited to,
18 Plaintiffs' Co-Lead and Liaison Counsel, Toyota advises the Court that it has
19 agreements in principle to resolve 244 matters outside of the MDL and JCCP
20 Proceedings.⁴

21 **II. ISP Overview**

22 Since the issuance and adoption of the ISP Order,⁵ Toyota's counsel have
23

24 ² All resolved case numbers have now been updated to include those matters that
25 have been voluntarily dismissed or are no longer being pursued by counsel.

26 ³ This number includes Alvarez-Cabrera, which has since been remanded to the
27 District of Puerto Rico.

28 ⁴ As of August 1, 2018, plaintiffs in approximately 12 unresolved matters outside of
the MDL or JCCP Proceeding have requested to participate in the ISP and a
majority of these plaintiffs have already provided records and materials necessary
to move forward.

⁵ The court overseeing the Texas state MDL proceeding in In re: Toyota Unintended

1 had extensive and intensive negotiations with plaintiffs' firms representing a large
2 number of plaintiffs and claimants. These efforts have included numerous face-to-
3 face meetings with plaintiffs' counsel (including Plaintiffs' Co-Lead Counsel) in
4 cities around the nation. These negotiations continue.

5 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel are in regular
6 contact with Counsel for Toyota and have been since the inception of the ISP.
7 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel encourage
8 plaintiffs' counsel and pro se plaintiffs in all courts to participate in the ISP and
9 assist those counsel and pro se plaintiffs to understand and navigate it. Toyota has
10 provided Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel with
11 various lists of counsel having UA cases throughout the country in order that
12 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel can identify those
13 counsel and initiate contact with them.

14 Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel have sent
15 numerous emails and memos following the materials sent by the Special Master,
16 and have calls with counsel in UA cases to discuss their participation in the ISP.
17 Plaintiffs' counsel in UA cases oftentimes contact Plaintiffs' Co-Lead Counsel and
18 Federal/State Liaison Counsel for procedural guidance on their cases, which is
19 freely given. Due to the open line of communication between the parties, Plaintiffs'
20 Co-Lead Counsel and Federal/State Liaison Counsel are able to ascertain the status
21 of cases in the ISP for individual counsel. Additionally, access to the electronic
22 depository is given to those counsel with active UA cases, if requested and if the
23 required protective order process is followed.

24 Plaintiffs' Federal/State Liaison Counsel maintain an extensive database of

25 Acceleration Litigation, Cause No. 2010-46354 (152nd Judicial District, District
26 Court for Harris County, Texas) (the "Texas MDL Proceeding") has issued its own
27 ISP order. This order, which was issued on February 18, 2014, is substantially
28 similar to the one issued by this Court. The Texas court also appointed Patrick A.
Juneau as the Settlement Special Master in that litigation to perform essentially the
same tasks there as he performs in this MDL.

every UA case and counsel's contact information in order to have ready access to any information on the UA case when individual counsel contacts Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel.

Counsel for Toyota has been and will continue to seek the input of Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel and negotiate in good faith with remaining plaintiffs' counsel in attempts to resolve cases both informally/in advance of, and at the ISP settlement conferences and/or mediations. Pursuant to the ISP Order and with Plaintiffs' Co-Lead Counsel and Federal/State Liaison Counsel's assistance, where possible, the ISP settlement conferences are first addressing bellwether plaintiffs, bellwether plaintiffs in the discovery pool and those plaintiffs with exigent circumstances.

III. ISP Settlement Conferences and ISP Mediations That Have Occurred

After meeting and conferring with Plaintiffs' Co-Lead Counsel, the parties have so far held forty official ISP settlement conferences and thirty-seven official ISP sets of mediations, in addition to numerous face-to-face informal meetings.

The following ISP settlement conferences have occurred:

- **Los Angeles, CA:** February 26 and 27, 2014 (22 matters).
- **New York, NY:** March 17, 2014 (6 matters).⁶
- **Houston, TX:** April 23 and 24, 2014 (23 matters).
- **San Francisco, CA:** May 1, 2014 (7 matters).
- **New Orleans, LA:** May 27 and 28, 2014 (7 matters).
- **Century City, CA:** June 3 and 4, 2014 (10 matters).
- **Providence, RI:** July 15 and 16, 2014 (16 matters).
- **New York, NY:** August 18, 2014 (21 matters).

⁶ The ISP settlement conferences scheduled for March 26, 2014, in Chicago, IL was adjourned due to scheduling changes, with the Settlement Special Master consenting to their cancellation. The mediations scheduled for July 30-31, 2014, in Los Angeles, CA were adjourned with the consent of the Settlement Special Master.

- 1 • **Houston, TX:** September 24, 2014 (7 matters).
- 2 • **Los Angeles, CA:** October 21, 2014 (7 matters).
- 3 • **Providence, RI:** October 30, 2014 (3 matters).
- 4 • **Los Angeles, CA:** November 11, 2014 (5 matters).
- 5 • **New York, NY:** December 5, 2014 (10 matters).
- 6 • **Orlando, Florida:** January 23-24, 2015 (5 matters).
- 7 • **Atlanta, GA:** February 5, 2015 (6 matters).
- 8 • **Orange County, CA:** March 17, 2015 (3 matters).
- 9 • **New Orleans, LA:** April 28-29, 2015 (7 matters).
- 10 • **Los Angeles, CA:** May 20, 2015 (8 matters).
- 11 • **Century City, CA:** June 30, 2015 (6 matters).
- 12 • **Irvine, CA:** July 28-29, 2015 (11 matters).
- 13 • **New York, NY:** August 31, 2015 (4 matters).
- 14 • **Los Angeles, CA:** September 15-16, 2015 (10 matters).
- 15 • **Orange County, CA:** October 13, 2015 (3 matters).
- 16 • **New York, NY:** November 10, 2015 (3 matters).
- 17 • **Fort Lauderdale, FL:** December 1, 2015 (2 matters).
- 18 • **San Francisco, CA:** February 19, 2016 (2 matters).
- 19 • **Phoenix, AZ:** March 30, 2016 (3 matters).
- 20 • **Los Angeles, CA:** June 15-17, 2016 (5 matters).
- 21 • **Century City, CA:** September 21-22, 2016 (3 matters).
- 22 • **New Orleans, LA:** January 9, 2017 (1 matter).
- 23 • **New York, NY:** January 19, 2017 (1 matter).
- 24 • **Century City, CA:** January 26, 2017 (1 matter).
- 25 • **New Orleans, LA:** March 7, 2017 (5 matters).

- 1 • **Los Angeles, CA:** April 26, 2017 (5 matters).
- 2 • **Newport, Rhode Island:** July 13, 2017 (3 matters).
- 3 • **New York, NY:** September 26, 2017 (1 matter).
- 4 • **Lafayette, LA/New York, NY/Indianapolis, IN (telephonic):** October 17,
- 5 2017 (1 matter).
- 6 • **San Francisco, CA:** October 30, 2017 (4 matters).
- 7 • **Houston, TX:** December 19, 2017 (4 matters).
- 8 • **Los Angeles, CA:** March 19-20, 2018 (8 matters).

9 The following ISP mediations have occurred:

- 10 • **Orange County, CA:** April 28 to 30, 2014 (5 matters).
- 11 • **New Orleans, LA:** May 28, 2014 (1 matter).
- 12 • **Providence, RI:** July 16 and 17, 2014 (5 matters).
- 13 • **Houston, TX:** September 23 and 24, 2014 (6 matters).
- 14 • **New Orleans, LA:** October 7 and 8, 2014 (5 matters).
- 15 • **New Orleans, LA:** October 22-24 and 27, 2014 (7 matters).
- 16 • **New Orleans, LA:** November 13, 2014 (1 matter).
- 17 • **New York, NY:** December 4, 2014 (3 matters).
- 18 • **Orlando, Florida:** January 23-24, 2015 (2 matters).
- 19 • **Atlanta, GA:** February 5, 2015 (2 matters).
- 20 • **Palm Beach Gardens, Florida:** March 5, 2015 (1 matter).
- 21 • **Torrance and Irvine, CA:** March 16-18, 2015 (6 matters).
- 22 • **New Orleans, LA:** April 28-29, 2015 (4 matters).
- 23 • **Los Angeles, CA:** May 19, 2015 (3 matters).
- 24 • **Irvine, CA:** July 28-29, 2015 (3 matters).
- 25 • **Los Angeles, CA and Irvine, CA:** September 15 and 17, 2015 (4 matters).
- 26 • **Orange County, CA:** October 12, 2015 (1 matter).
- 27
- 28

- 1 • **New Orleans, LA:** October 20, 2015 (2 matters).
- 2 • **New York, NY:** November 10, 2015 (1 matter).
- 3 • **Fort Lauderdale, FL:** December 1, 2015 (1 matter).
- 4 • **San Francisco, CA:** January 18-19, 2016 (2 matters).
- 5 • **San Francisco, CA:** February 19, 2016 (3 matters).
- 6 • **Phoenix, AZ:** March 30, 2016 (2 matters).
- 7 • **Los Angeles, CA:** June 15-17, 2016 (4 matters).
- 8 • **Newport, RI:** July 18, 2016 (2 matters).
- 9 • **Orlando, FL:** September 12, 2016 (3 matters).
- 10 • **Century City, CA:** September 21, 2016 (1 matter).
- 11 • **Los Angeles, CA:** November 10-11, 2016 (2 matters).⁷
- 12 • **Salt Lake City, UT:** December 15, 2016 (1 matter).
- 13 • **Century City, CA:** January 26, 2017 (1 matter).
- 14 • **New Orleans, LA:** March 7-8, 2017 (2 matters).
- 15 • **Los Angeles, CA:** April 26, 2017 (1 matter).
- 16 • **Newport, Rhode Island:** July 13-14, 2017 (3 matters).
- 17 • **San Francisco, CA:** August 21, 2017 (1 matter).
- 18 • **New York, NY:** September 26, 2017 (2 matters).
- 19 • **Lafayette, LA/New York, NY/Indianapolis, IN (telephonic):** October 17,
- 20 2017 (1 matter).
- 21 • **Atlanta, GA:** May 15, 2018 (2 matters).

22 **III. ISP Settlement Conferences and ISP Mediations That Are Being**

23 **Scheduled**

24 In light of the successes and pursuant to Court order, the parties continue to

25

27 ⁷ The ISP mediation scheduled for November 17, 2016, in Salt Lake City, UT was
28 adjourned due to unexpected matters that the Settlement Special Master had to
address in another Multidistrict Litigation.

1 schedule more ISP settlement conferences and ISP mediations, subject to
2 availability and other issues.

3 **IV. Continued Interest in the ISP**

4 In addition to the resolutions as noted above, Plaintiffs' Co-Lead and Liaison
5 Counsel and Toyota continue to be encouraged by the interest and response to date
6 from plaintiffs' counsel in providing materials for cases to participate in the ISP. In
7 addition, the Settlement Special Master's office, Plaintiffs' Co-Lead and Liaison
8 Counsel and counsel for Toyota have received and responded to hundreds of e-
9 mails, telephone calls, and letters regarding the ISP.

10 The Settlement Special Master and counsel for Toyota are in the process of
11 meeting and conferring with Plaintiffs' Co-Lead and Liaison Counsel regarding
12 upcoming ISPs as well as collecting records in order to begin confidential good
13 faith negotiations. Plaintiffs' Federal/State Liaison Counsel continues to provide
14 information and procedural assistance to those inquiring and interested in ISP
15 participation, and in doing informational outreach to the declining number of those
16 not yet engaged in the process.

17 Dated: August 15, 2018

KING & SPALDING LLP

18 By: /s/ John P. Hooper

19 John P. Hooper

20 *jhooper@kslaw.com*

21 1185 Avenue of the Americas

22 New York, NY 10036

23 Telephone: (212) 556-2220

24 *Attorneys for Defendants Toyota Motor
25 Corp. and Toyota Motor Sales, U.S.A.,
26 Inc.*

27 LIEFF CABRASER HEIMANN &
28 BERNSTEIN, LLP

By: /s/ Elizabeth J. Cabraser

Elizabeth J. Cabraser (83151)
ecabraser@lchb.com
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: (415) 956-1000

Mark P. Robinson, Jr. (54426)
mrobinson@rcrlaw.net
Donald H. Slavik
dslavik@rcrlaw.net
ROBINSON CALCAGNIE
ROBINSON SHAPIRO DAVIS, INC.
19 Corporate Plaza Drive
Newport Beach, CA 92660
Telephone: (949) 720-1288
Facsimile: (949) 720-1292

*Plaintiffs' Co-Lead Counsel for the
Personal Injury/Wrongful Death Cases*

BEASLEY ALLEN CROW METHVIN
PORTIS & MILES PC

By: /s/ W. Daniel Miles, III

W. Daniel Miles, III
dee.miles@beasleyallen.com
272 Commerce St.
Birmingham, AL 36103
Telephone: (334) 269-2343

*Member of the Liaison Counsel Committee
for the Personal Injury/Wrongful Death
Cases*

CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18, not a party to this litigation, and am an employee of King & Spalding LLP, which represents the Toyota Defendants in the above-referenced litigation. I further certify that a true and correct copy of the above and foregoing document was served upon the attorney of record for each other party through the Court's electronic filing service on August 15, 2018.

/s/ Jason Bush
Jason Bush